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09/825,470

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David Lawrence

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CHADBOURNE & PARKE LLP  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER

LONG, FONYA M

ART UNIT

PAPER NUMBER

3689

NOTIFICATION DATE

DELIVERY MODE

09/16/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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Patents@chadbourne.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/825,470	<b>Applicant(s)</b> LAWRENCE, DAVID	
	<b>Examiner</b> FONYA LONG	<b>Art Unit</b> 3689	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,6-9,11-20 and 24-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,6-9,11-20 and 24-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This communication is a Final Office Action rejection on the merits in response to communication received on July 06, 2010. Claims 1, 16, 20, and 28 have been amended. Claims 3-5, 10, and 21-23 have been cancelled. Claims 1, 2, 6-9, 11-20, and 24-28 are currently pending and have been addressed below.

#### ***Response to Amendment***

1. Applicant's amendment to the claims are sufficient to overcome the 101 rejection for claims 1-2, 6-9, 11-20, and 24-27; and the 112 1<sup>st</sup> rejection for claims 16-20 and 24-27 in regards to the phrase "consisting of" as set forth in the previous office action.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1, 2, 6-9, 11-20, and 24-28 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The following terms and concepts are not defined in a concrete manner that would allow someone to duplicate the invention. There are no clear and adequate

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explanations of the following terms so as to allow one wishing to duplicate and use the invention to do so:

Applicant has amended the claims language to read:

receiving, into the computer memory, information relating to a plurality of risk assessment factors associated with a legal action, wherein ***a user-defined numerical value is assigned to each of the plurality of risk assessment factors, wherein the numerical value is indicative of a legal risk of each risk assessment factor relative to the other plurality of risk assessment factors and wherein*** the risk assessment factors are selected from a group including: a likelihood of prolonged litigation, damages, punitive damages, and damaged public opinion.

The claim language is then directed to:

assigning, by the computer, a user-defined weight to each of the plurality of risk assessment factors;

calculating a plurality of risk factor values by multiplying the numerical value and the weight assigned to each of the plurality of risk assessment factors;

calculating a risk quotient for the legal action by summing the plurality of risk factor values;

deriving a scaled numeric value indicative of an amount of risk associated with the legal action; and

generating by the computer, based on the derived scaled numeric value, a suggested action associated with the corresponding legal action.

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The specification explicitly states one exemplary way to implement the invention, which includes multiplying (an assigned numerical value representative of risk associated with a piece of information) x (a numerical weight of a risk assessment factor to which the information is assigned) and summing up the results for multiple pieces of information to obtain a risk quotient (scaled numerical or alphanumerical value).

How is the numerical value assigned to the risk assessment factors? What determines how the value gets assigned?

The calculation involves subjective analysis of values that are not defined. There is no detailed or concrete, full, concise and exact written description of how one would quantify or assign the values.

Applicant directs the Examiner to paragraphs 0045-0047 wherein it is discloses as follows:

[0045] A ALARM risk quotient can be calculated 313 by weighting the risk assessment factors 116 according to their relative risk, such as the likelihood of prolonged litigation, substantial damages, punitive actions, damaged public opinion or other adverse affects related to Risk. Calculating a ALARM risk quotient can be accomplished by assigning a numerical value to each risk assessment factor 116, wherein the numerical value is representative of the risk associated with a particular piece of information, or a combination of pieces of information. For example, it may be determined in one case that a litigation poses significant advantages with a very strong position that has a good chance of being resolved through a summary judgment before an issue friendly judge. Therefore this information from the first case is assigned a low numerical value, or even a negative numerical value. In a second case, an issue may involve subject matter that is sensitive politically or to public relations. Information conveying this type of subject matter with high risk may be assigned a high numerical value. In addition, a weight can be assigned to an ALARM risk assessment factor 116 to which the information is assigned. A Risk Quotient can be calculated by multiplying a weighted numerical value indicative of how important a risk assessment factor 116 may be in regards to Risk times a value assigned according to the information contained in the risk assessment factor to obtain a risk factor value. The risk factor values may then be summed to obtain the Risk Quotient 110.

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[0046] For example, information received may indicate a potential litigation would be before a court that has previously issued strong opinions adverse to a client's position. In addition, the subject matter of the potential litigation may be particularly sensitive in the political arena. The risk assessment factor 116 assigned to the court may be a numerical value of 8 indicating a high risk with a weight of 10 given to court positions. In addition, the subject matter may also be rated at an 8 because of the risk associated with the political climate and political climate may have a weight of 7 according to its location and breadth of coverage. On the other hand, the client may have strong evidence in support of their position, which may receive a 1 because it is a relatively low risk. Evidence may also have a risk factor value of 10. Also, the subject matter of the legal action may not be a core interest to the client wherein this risk factor may be assigned a value of 3, with interest to client having an assigned weight of 5. Therefore, the net score for this example would be 8 times 10 or 80 plus 8 times 7 or 56 plus 3 times 10 or 30 plus 3 times 5 or 15 for a sum of 181, which is the Risk Quotient.

[0047] A suggested action can be generated that is responsive to the Risk Quotient 314. For example, in response to a substantial risk indicated by a large value for a Risk Quotient, a suggested action may be to not proceed with a legal transaction or to settle a pending action. In response to a low risk score, the ALARM server 210 may respond by generating a course of action recommending pursuit of a legal action, and/or a strategy that may be executed to pursue the action. Intermediate scores may respond by suggesting that additional information be gathered, that various aspects of the legal action be monitored, or other interim measures.

There is no list of essential elements or questions identified which identify the numerical values and how they are assigned. Thus, there is no concrete result produced. The specification provides very little usable clear guidance as to how to objectively make the determination of what is produced in the report.

With respect to subjective information entered by a user, this subjective information would result in a different value depending on the scaled values that the individual, uses, how the values are assigned and the weight the individual assigns to a factor. Thus, for each individual performing the invention, the result would be different and would have a different meaning. Therefore, the invention does not produce a repeatable or concrete result as required by the statute.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-2, 6-9, 11-20, and 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heckman et al. (5,875,431) (hereinafter referred to as Heckman) in view of Halligan et al. (US 2002/0077941) (hereinafter referred to as Halligan).

Referring to Claims 1, 16, 20, and 28:

Heckman discloses a computer implemented method, system, and program code for managing risk related to a legal action, the system comprising a computer server (Figure 2 (27) (28)) accessible with a network access device via a communications network (Figure 2 (20) and (19)) and software to cause the system to perform the method (col. 5, lines 11-17; col. 12, lines 40-54) comprising:

receiving, into a computer memory of the computer, information identifying a person's status as at least one of a party to a legal action and an amicus curiae of the court in a pending legal action; and receiving information relating to a plurality of risk assessment factors associated with legal actions (col. 6, lines 45-64 a strategic legal service plan; requires identification of milestones against which one can measure process toward the objective; once this path has been identified, deviations destructive to progress are more detected and avoided; col. 7, lines 6-12 ***strategic case plans consist of an accurate assessment of a case's potential opportunities and***

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**weaknesses**; col. 7, lines 36-39 the legal team must decide upon the desired outcome **and the acceptable level of risk or uncertainty permitted** as it can affect the cost of delivery of services (risk assessment); col. 7, line 48 thru col. 8, line 4 perform a structured, or triage-type analysis to decide whether the case is defensible or meritorious; the results will usually be sufficient to permit a rough determination of exposure or liability; col. 16, lines 59-66 routing information to Risk Management); and generating a suggested action (col. 5, lines 18-28 enabling an iterative, interactive closed loop legal strategic planning system **to produce a legal strategic plan** to maximize the likelihood of attaining the desired outcome to the case; col. 5, lines 61-67 strategic legal activity or litigation planning aspects of the invention involve defining the most cost-efficient process by which a defined, acceptable case outcome may be obtained) col. 13, lines 48-54; col. 14, lines 33-39 and 45-56; col. 17, lines 34-37).

Heckman does not disclose assigning a user-defined numerical value to each of a plurality of risk assessment factors, wherein the numerical value is indicative of a legal risk of each risk assessment factor relative to the other plurality of risk assessment factors, assigning a user-defined weight to each of the plurality of risk assessment factors, calculating a risk factor value by multiplying the numerical value and the weight assigned to each of the risk assessment factors; calculating a risk quotient for the legal action by summing the plurality of risk values; and deriving a scaled numeric value indicative of an amount of risk associated with the legal action.



However, Halligan discloses a trade secret documentation tool used to prepare reports and court exhibits documenting employee and outsider exposure to trade secrets so as to be used at the time of litigation by assigning a user-defined numerical value to each of a plurality of risk assessment factors, wherein the numerical value is indicative of a legal risk of each risk assessment factor relative to the other plurality of risk assessment factors (Figure 4 Enter values of the five factors for the Trade Secret, page 2 [0020- 0023], page 6 [0094-0095], page 7 [0096] steps of applying a plurality of generally accepted legal criteria to the content of a trade secret, **assigning a value under each criterion**; applying generally accepted legal criteria (e.g. the six factors of a trade secret as set forth in Section 757 of the First Restatement of Torts; page 2 [0020-0023], page 6 [0095], and page 7 [0096-0098] **assigning a value under each criterion and generating one or more metrics from the assigned values; the applicant may provide information about the estimated values of the six factors of a trade secret, such as on a 1 to 5 scale**; assigning a value under each criterion and generating one or more metrics; Figures 3-4, 6 - Report Outliers, page 3 [0034] calculating the ratios and other logical and mathematical values from various values associated with the trade secret and other data and displaying and printing the results; page 7 [0096] comparing the results with predetermined threshold values may be used to provide an objective measure of whether the trade secret is defensible, (i.e., defensible); used to establish that a court of competent jurisdiction would more likely than not find the existence of a trade secret.), assigning a weight to each of the plurality of risk assessment factors ([0009] using the six facts to document, weight and evaluate

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the existence of a trade secret and measures to protect the trade secret [0017]

weighting of the six factors [0027] **calculating various weightings of the six factors**

**[0095] the five factors for each trade secret may be characterized by a value, a**

**number on a scale of 1 to 5; the accounting system may calculate various**

**weightings of the six factors),** calculating a risk factor value by multiplying the

numerical value and the weight assigned to each of the risk assessment factors;

calculating a risk quotient for the legal action by summing the plurality of risk values;

deriving a scaled numeric value indicative of an amount of risk associated with the legal

action ([0034] calculating the ratios and other logical and mathematical values; [0097]

assigned values may be averaged to provide the relevant metric; the six assigned

values may be multiplied and the sixth root taken).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine analysis method and system of Halligan with the legal strategic analysis method and system of Heckman so that an evaluation can be performed to determine whether the trade secret is likely to meet the tests applied by the courts and comparing the results with predetermined threshold values which can be used to provide an objective measure of whether the trade secret is defensible, and thus any alleged misappropriation should be litigated if the defensibility factors are high which may suggest a very important or defensible trade secret as opposed to trade secrets with low defensibility factors.

Examiner asserts that Heckman and Halligan disclose information relating to a plurality of risk assessment factors associated with legal actions (Heckman col. 6, lines

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45-64 a strategic legal service plan; requires identification of milestones against which one can measure process toward the objective; once this path has been identified, deviations destructive to progress are more detected and avoided; col. 7, lines 6-12 ***strategic case plans consist plan accurate assessment of a case's potential opportunities and weaknesses***; col. 7, lines 36-39 the legal team must decide upon the desired outcome and ***the acceptable level of risk or uncertainty permitted*** as it can affect the cost of delivery of services (risk assessment); col. 7, line 48 thru col. 8, line 4 perform a structured, or triage-type analysis to decide whether the case is defensible or meritorious; the results will usually be sufficient to permit a rough determination of exposure or liability; col. 16, lines 59-66 routing information to Risk Management)

The fact that the risk assessment factors are selected from a group including: a likelihood of prolonged litigation, damages, punitive damages, and damaged public opinion further defines the factors and is determined to hold little, if any, patentable weight. The steps to the invention would be performed the same regardless of what type risk factors are being assessed. The structure of the system would be the same. Thus, the specific type of risk assessment factors will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F. 2d 1381, 1385, 217 USPQ 401, 404 (Fed Cir. 1983); *in re Lowry*, 32 F. 3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate this data because such data does not functionally

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relate to the steps in the method claimed and because the subjective interpretation of data does not patentably distinguish the claimed invention.

Referring to Claim 2:

Heckman disclose generating a report including the suggested action (*col. 5, lines 64-67 defining the most cost-efficient process by which a defined, acceptable case outcome may be obtained, col. 6, lines 13-17 provides the "best" legal strategic plan to achieve a desired out is enhanced as completed cases are analyzed, lines 45-48, col. 19-BESTMODE, Figure 5-1 (62) Figure 5-2 (68, 69) col. 13, lines 48-54 reporting information; col. 14, lines 33-39 and 45-56 (track and report; quality or type of reports; col. 17, lines 34-37))*).

Referring to Claim 6:

Both Halligan and Heckman disclose wherein the suggested action is directed towards reducing risk related to a legal action (*Halligan -page 1 [0009] an evaluation should be done to determine whether the trade secret is likely to meet the tests applied by the courts; Section 757 of the First Restatement of Torts sets forth six factors for evaluating the existence of a trade secret to assist courts in adjudicating trade secrets, page 2 [0020], page 7 [0096-0098] defendability factors may suggest a very important or defendable trade secret; and Heckman - col. 6, lines 9-23 provides "best" legal strategic plan to achieve a desired outcome*).

Referring to Claims 7-9:

Heckman discloses a strategic planning method and system with the ability to provide the "best" legal strategic plan (*col. 6, lines 8-23, 45-64*) which could encompass

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arbitration. Heckman discloses wherein the suggested action comprises commencing a litigation and wherein the suggested action comprises settling a legal action (*Figure 4 col. 22, lines 12-28 based on the results of the preliminary analysis, a decision is made to either go forward with legal action or stop and settle the case*).

Referring to Claim 11:

Heckman discloses wherein at least one of the plurality of risk assessment factors is associated with a venue for the legal action (*col. 8, lines 21-36 Venue, col. 16, lines 59-60 impact of the venue of the case, the relevant jurisdiction, col. 15, lines 21-22, Figure 2*).

Referring to Claim 12:

Halligan discloses wherein the received information relating to the plurality of risk assessment factors are gathered electronically (*Figure 1, [0051-0061] [0080]*).

Referring to Claim 13:

Both Heckman and Halligan disclose a method further comprising aggregating scaled numerical or alphanumerical values relating to the person (*Heckman – defendants col. 8, lines 38-63 and Halligan - trade secrets*) and assessing an aggregate level or risk related to actions (*Heckman Figures 1-2, 3 (33 case specific data) (34, 35, 37, 38), Figure 4, legal and factual issues, nature of case, Figures 5-1 and 5-2; col. 7, lines 36-40 acceptable level of risk and uncertainty; col. 8, lines 5-20 summary of case facts, lines 37-52 Current Case Development; col. 11, lines 18-41; col. 20, line 67 thru col. 21, line 2 the risk of not achieving the desired outcome is a factor in selecting the*

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*baseline template; minimizing the risk of failure for each task; Halligan page 2-3 [0020-0034]; page 7 [0099] risk of loss of the trade secret).*

Referring to Claim 14:

Halligan discloses calculating an average numeric value or value associated with the person (page 5 [0084] Table B, Figure 5 Calculate Employee Risk Factor; page 8 [0105-0106]).

Referring to Claim 15:

Heckman discloses a legal action with litigation (Figure 4). Heckman does not disclose that the legal action is a class action suit.

The fact that the legal action is a class action suit holds little, if any, patentable weight in the method and system claims. The steps to the invention would be performed the same regardless of the type of legal action. Examiner asserts that the structure of the claimed system is not affected by the type of legal action. Thus, the type of legal action will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 F. 2d. 1381, 1385, 217 USPQ 401,404 (Fed Cir. 1983); *In re Lowry*, 32 F. 3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate a class action suit because the type of suit does not patentably distinguish the steps in the method claimed and the structure of the system claimed over the prior art.

Referring to Claims 17-19:

Halligan discloses wherein the information is received via an electronic feed, wherein the network access device is a personal computer, or a wireless handheld device (Pages 3-4 [0052-0066]).

Referring to Claims 24-27:

The fact that the person is a legal person or a natural person, or a combination of both or that the legal person is governmental entity, or that the suggested action comprises appearing as an amicus curiae of the court in litigation, or that the risk comprises legal, regulatory, financial and reputational exposure hold little, if any, patentable weight in the method and system claims. The method steps to the invention would be performed the same regardless of the type of person; type of suggested action; and type of risk involved. Examiner asserts that type of person; type of suggested action; and type of risk involved does not affect the structure of the claimed system. Thus, type of person; type of suggested action; and type of risk involved will not distinguish the claimed invention from the prior art in terms of patentability, see *In re Gulack*, 703 f. 2d. 1381, 1385, 217 USPQ 401,404 (Fed Cir. 1983); *In re Lowry*, 32F. 3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the person being a legal person or a natural person, or a combination of both or that the legal person is governmental entity, or that the suggested action comprises appearing as an amicus curiae of the court in litigation, or that the risk comprises legal, regulatory, financial and reputational exposure because

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such data does not patentably distinguish the steps in the method claimed and structure of the system claimed from the prior art.

### ***Response to Arguments***

6. Applicant's arguments filed July 06, 2010 have been fully considered but they are not persuasive.

Applicant argues that the Heckman and Halligan combination fails to disclose "calculating, by the computer, a risk quotient for the legal action by summing the plurality of risk factor values; deriving a scaled numeric value indicative of an amount of risk associated with the legal action; and generating by the computer, based on the derived scaled numeric value, a suggested action associated with the corresponding legal action. Examiner respectfully disagrees. Examiner asserts that Heckman discloses providing a suggested action based on the assessed risk of the legal action (Col. 7, lines 6-12 discloses ***strategic case plans consist of an accurate assessment of a case's potential opportunities and weaknesses***; col. 7, lines 36-39 the legal team must decide upon the desired outcome ***and the acceptable level of risk or uncertainty permitted*** as it can affect the cost of delivery of services (risk assessment); col. 7, line 48 thru col. 8, line 4 perform a structured, or triage-type analysis to decide whether the case is defensible or meritorious; the results will usually be sufficient to permit a rough determination of exposure or liability; col. 16, lines 59-66 routing information to Risk Management. Col. 5, lines 18-28 discloses enabling an iterative, interactive closed loop legal strategic planning system ***to produce a legal***



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**strategic plan** to maximize the likelihood of attaining the desired outcome to the case; col. 5, lines 61-67 strategic legal activity or litigation planning aspects of the invention involve defining the most cost-efficient process by which a defined, acceptable case outcome may be obtained). Examiner asserts Halligan discloses calculating, by the computer, a risk quotient for the legal action by summing the plurality of risk factor values ([0097-0098] discloses averaging the assigned values (i.e. summing the values and dividing the values by the number of values. A calculation may also be made to generate a ratio for analysis). Halligan also discloses deriving a scaled numeric value indicative of an amount of risk ([0097] via the assigned weighted values may be averages to provide a relevant metric (i.e. a scaled numeric value)).

### **Conclusion**

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon-Thurs. 7:30am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. L./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689